



**6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R06-OAR-2012-0096; FRL-9916-32-Region 6]**

## **Approval and Promulgation of Implementation Plans; Texas; Revision to Control Volatile Organic Compound Emissions from Storage Tanks**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a Texas State Implementation (SIP) revision for control of volatile organic compound (VOC) emissions from storage tanks. The revision implements additional controls in the Dallas-Fort Worth 1997 ozone nonattainment area (DFW area); modifies control requirements in the DFW area, the Houston-Galveston-Brazoria ozone nonattainment area (HGB area), the Beaumont-Port Arthur area (BPA area) and El Paso, Gregg, Nueces and Victoria Counties; and makes non-substantive changes to VOC control provisions that apply in Aransas, Bexar, Calhoun, Matagorda, San Patricio and Travis Counties. In addition, EPA finds that the SIP revision implements serious area reasonable available control technology (RACT) controls for the VOC storage source category in the DFW area and continues to implement severe area RACT for this source category in the HGB area as required by the Clean Air Act (CAA).

**DATES:** This rule is effective on **[Insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives relevant adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2012-0096, by one of the following methods:

- *www.regulations.gov*. Follow the online instructions.
- E-mail: Mr. Carl Young at *young.carl@epa.gov*.
- Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L),  
Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Instructions:* Direct your comments to Docket No. EPA-R06-OAR-2012-0096. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment,

EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

**FOR FURTHER INFORMATION CONTACT:** Carl Young, (214) 665-6645,  
[young.carl@epa.gov](mailto:young.carl@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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## **I. Background**

### *A. CAA and SIPs*

Section 110 of the CAA requires states to develop and submit to EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards. These ambient standards currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. EPA approved SIP regulations and control strategies are federally enforceable. As needed, States revise the SIP as needed and submit revisions to EPA for approval.

### *B. SIP Revision Submitted on January 17, 2012*

A SIP revision for controlling VOC emissions from storage tanks was adopted by Texas on December 7, 2011, and submitted to us on January 17, 2012. VOCs are an “ozone precursor”, as they react with oxygen, nitrogen oxides (NO<sub>x</sub>) and sunlight to form ozone. Controlling sources of VOC and NO<sub>x</sub> emissions can lower ozone levels in the ambient air.

The revision amends Title 30, Chapter 115 of the Texas Administrative Code (30 TAC 115) to (1) revise §§115.110, 115.112 - 115.117, and 115.119, and (2) add new §§115.111 and 115.118. The revision (1) implements additional VOC controls for storage tanks in the DFW area; (2) modifies VOC control requirements in the DFW area, the HGB area, the BPA area and El Paso, Gregg, Nueces and Victoria Counties and (3) makes non-substantive changes to VOC control provisions that apply in Aransas, Bexar, Calhoun, Matagorda, San Patricio and Travis Counties.

The DFW area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties. The DFW area was reclassified as serious ozone nonattainment

for the 1997 ozone standard (75 FR 79302, December 20, 2010). The SIP revision for storage tanks was adopted by Texas to meet the CAA RACT requirements for the VOC storage emission source category in serious ozone nonattainment areas. In the DFW area the revision (1) requires control of VOC flash emissions from storage tanks in the DFW area that might otherwise emit 50 tons per year (tpy) of VOC or more, (2) adds requirements for low-leaking storage tank fittings and (3) limits situations when a floating roof storage tank is allowed to emit VOCs because the roof is not floating on the stored VOC liquid.

The revision also adds a requirement for the DFW and HGB areas that a vapor recovery unit used for VOC control must be designed to process all VOC vapor generated by the maximum crude oil and condensate throughput of the storage tank and must transfer recovered vapors to a pipe or container that is vapor-tight. The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. The HGB area is classified as a severe ozone nonattainment area for the 1997 ozone NAAQS (73 FR 56983, October 1, 2008).

In the DFW, HGB and BPA areas and in El Paso, Gregg, Nueces and Victoria Counties the revision (1) adds an explicit requirement that any flare used for control must be designed and operated according to 40 CFR §60.18(b) - (f) as amended through December 22, 2008, and (2) amends monitoring and testing requirements that ensure effectiveness of VOC controls. The BPA area consists of Hardin, Jefferson, and Orange Counties.

VOC control requirements for storage tanks also apply in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties. The revision did not substantially change requirements for these counties.

The SIP revision submitted by Texas may be accessed online at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-OAR-2012-0096.

*C. CAA Requirements for the SIP Revision*

The primary CAA requirements pertaining to the SIP revision submitted by Texas are found in CAA sections 110(l) and 182(b)(2). CAA section 110(l) requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing. Section 110(l) also requires that we not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. CAA section 182(b)(2) requires that ozone nonattainment areas classified as moderate or above implement RACT controls on all major VOC and NO<sub>x</sub> emission sources and on all sources and source categories covered by a control technique guideline (CTG) issued by us. RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979). The CTG and Alternative Control Technique (ACT) documents that we issue provide states with guidance concerning what types of controls could constitute RACT for a given source category. The documents we have issued pertaining to storage tanks are (1) Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks (EPA-450/2-77-036, December 1977), (2) Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047, December 1978) and (3) Alternative Control Techniques Document – Volatile Organic Liquid Storage In Floating and Fixed Roof Tanks (EPA-453/R-94-001, January 1994). These documents are accessible online at [www.epa.gov/airquality/ozonepollution/SIPToolkit/ctgs.html](http://www.epa.gov/airquality/ozonepollution/SIPToolkit/ctgs.html). Because the DFW area was

classified as a serious ozone nonattainment area, a major source is a source having the potential to emit 50 tpy of VOC or more (CAA 182(c)). Because the HGB area is classified as a severe ozone nonattainment area, a major source is a source having the potential to emit 25 tpy of VOC or more (CAA 182(d)).

## **II. EPA's Evaluation**

VOC flash emissions occur during transfer of the VOCs from a higher pressure storage tank to a lower pressure tank, reservoir, or other container. Floating roof landing loss emissions occur when the liquid level in a floating roof tank is lowered and the roof rests (lands) on the legs, or supports, rather than on the liquid, severely limiting the VOC control efficiency of the floating roof. The storage tank requirements, to control flash emissions, use low-leaking tank fittings and further limit emissions from floating roof storage tanks were previously implemented in the HGB area and approved by us as RACT (75 FR 15348, March 29, 2010). For the DFW area, we previously found that Texas rules for storage tanks met RACT requirements (64 FR 3841, January 26, 1999 and 74 FR 1903, January 14, 2009). The RACT rules must address major sources that have the potential to emit 50 tpy of VOC or more in the DFW area (serious area requirement) and 25 tpy of VOC or more in the HGB area (severe area requirement).

Our evaluation found that the revision to the Texas SIP (1) improves the rules that were previously approved, (2) results in additional VOC reductions in the DFW area and (3) ensures that RACT is met for storage tanks with flash emissions in the DFW area and continues to be met in the HGB area. Additionally we found that (1) Texas adopted after reasonable notice and public hearing and (2) approval would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. A

technical support document (TSD) was prepared which details our evaluation. Our TSD may be accessed online at *www.regulations.gov*, Docket No. EPA-R06-OAR-2012-0096.

### **III. Final Action**

We are approving a Texas SIP revision for control of VOC emissions from storage tanks adopted on December 7, 2011, and submitted on January 17, 2012. The revision (1) revises 30 TAC §§115.110, 115.112 - 115.117, and 115.119 and (2) adds new 30 TAC §§115.111 and 115.118. The revision (1) implements additional VOC controls for storage tanks in the DFW area; (2) modifies VOC control requirements in the DFW area, the BPA area, the HGB area and the counties of El Paso, Gregg, Nueces and Victoria and (3) makes non-substantive changes to VOC control provisions that apply in Aransas, Bexar, Calhoun, Matagorda, San Patricio and Travis Counties. In addition, we find that this revision implements serious area RACT controls for the VOC storage source category in the DFW area for the 1997 ozone NAAQS and continues to implement severe area RACT controls for this source category in the HGB area.

We are publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[FEDERAL REGISTER OFFICE: insert date 60 days after date of publication in the Federal Register]** without further notice unless we receive relevant adverse comment by **[FEDERAL REGISTER OFFICE: insert date 30 days after date of publication in the Federal Register]**. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will



not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 22, 2014.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart SS – Texas**

2. In § 52.2270 (c), the table titled “EPA APPROVED REGULATIONS IN THE TEXAS SIP” is amended by revising the entries for sections 115.110, 115.112 through 115.117, and 115.119 and adding in sequential order new entries for sections 115.111 and 115.118.

The amendments read as follows:

#### **§ 52.2270 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/Subject	State approval/ submittal date	EPA approval date	Explanation
* * * * *				
Chapter 115 (Reg 5) – Control of Air Pollution from Volatile Organic Compounds				
* * * * *				
Subchapter B – General Volatile Organic Compound Sources				
Division 1: Storage of Organic Compounds				
Section 115.110	Applicability and Definitions	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	

Section 115.111	Exemptions	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.112	Control Requirements	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.113	Alternate Control Requirements	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.114	Inspection Requirements	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.115	Monitoring Requirements	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.116	Testing Requirements	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.117	Approved Test Methods	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	

Section 115.118	Recordkeeping Requirements	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
Section 115.119	Compliance Schedules	12/1/2011	<b><u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u></b>	
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